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# HOUSE BILL No. 1716

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 1-1-4-5; IC 4-15; IC 5-16-6-1; IC 5-28-21-7; IC 7.1-3; IC 8-23-2-3; IC 10-13-3-1; IC 10-16-8-15; IC 12-20-5.5-1; IC 12-30; IC 16-23-1-21; IC 20-12; IC 20-24-2-2; IC 20-33-1; IC 20-42-3-10; IC 22-9; IC 22-9.5; IC 24-9-3-9; IC 27-2; IC 27-7-12-7; IC 31-9-2-51; IC 31-19-8-6; IC 33-28; IC 33-41-1-2; IC 35-46-2; IC 36-9-4-37.

**Synopsis:** Civil rights. Extends antidiscrimination and civil rights statutes to include prohibiting discrimination based on sexual orientation, gender identity, national origin, and ancestry. Makes a technical correction to a definition.

**Effective:** July 1, 2007.

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January 26, 2007, read first time and referred to Committee on Public Policy.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1716

A BILL FOR AN ACT to amend the Indiana Code concerning civil rights.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 1-1-4-5 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2007]: Sec. 5. The following definitions apply  
3 to the construction of all Indiana statutes, unless the construction is  
4 plainly repugnant to the intent of the general assembly or of the context  
5 of the statute:

6       (1) "Adult", "of full age", and ~~"person in his "~~**"age of majority"**  
7 **mean refer to** a person at least eighteen (18) years of age.

8       (2) "Attorney" includes a counselor or other person authorized to  
9 appear and represent a party in an action or special proceeding.

10       (3) "Autism" means a neurological condition as described in the  
11 most recent edition of the Diagnostic and Statistical Manual of  
12 Mental Disorders of the American Psychiatric Association.

13       (4) "Bond" does not necessarily imply a seal.

14       (5) "Clerk" means the clerk of the court or a person authorized to  
15 perform the clerk's duties.

16       **(6) "Gender identity" means an individual's self identification**  
17 **as a male or a female, regardless of the individual's biological**

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**sex.**

~~(6)~~ (7) "Health record", "hospital record", or "medical record" means written or printed information possessed by a provider (as defined in IC 16-18-2-295) concerning any diagnosis, treatment, or prognosis of the patient, unless otherwise defined. Except as otherwise provided, the terms include mental health records and drug and alcohol abuse records.

~~(7)~~ (8) "Highway" includes county bridges and state and county roads, unless otherwise expressly provided.

~~(8)~~ (9) "Infant" or "minor" means a person less than eighteen (18) years of age.

~~(9)~~ (10) "Inhabitant" may be construed to mean a resident in any place.

~~(10)~~ (11) "Judgment" means all final orders, decrees, and determinations in an action and all orders upon which executions may issue.

~~(11)~~ (12) "Land", "real estate", and "real property" include lands, tenements, and hereditaments.

~~(12)~~ (13) "Mentally incompetent" means of unsound mind.

~~(13)~~ (14) "Money demands on contract", when used in reference to an action, means an action arising out of contract when the relief demanded is a recovery of money.

~~(14)~~ (15) "Month" means a calendar month, unless otherwise expressed.

~~(15)~~ (16) "Noncode statute" means a statute that is not codified as part of the Indiana Code.

~~(16)~~ (17) "Oath" includes "affirmation", and "to swear" includes to affirm.

~~(17)~~ (18) "Person" extends to bodies politic and corporate.

~~(18)~~ (19) "Personal property" includes goods, chattels, evidences of debt, and things in action.

~~(19)~~ (20) "Population" has the meaning set forth in IC 1-1-3.5-3.

~~(20)~~ (21) "Preceding" and "following", referring to sections in statutes, mean the sections next preceding or next following that in which the words occur, unless some other section is designated.

~~(21)~~ (22) "Property" includes personal and real property.

~~(22)~~ (23) "Sheriff" means the sheriff of the county or another person authorized to perform sheriff's duties.

~~(23)~~ (24) "State", applied to any one of the United States, includes the District of Columbia and the commonwealths, possessions, states in free association with the United States, and the territories. "United States" includes the District of Columbia and

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the commonwealths, possessions, states in free association with the United States, and the territories.

~~(24)~~ (25) "Under legal disabilities" includes persons less than eighteen (18) years of age, mentally incompetent, or out of the United States.

~~(25)~~ (26) "Verified", when applied to pleadings, means supported by oath or affirmation in writing.

~~(26)~~ (27) "Will" includes a testament and codicil.

~~(27)~~ (28) "Without relief" in any judgment, contract, execution, or other instrument of writing or record, means without the benefit of valuation laws.

~~(28)~~ (29) "Written" and "in writing" include printing, lithographing, or other mode of representing words and letters. If the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

~~(29)~~ (30) "Year" means a calendar year, unless otherwise expressed.

~~(30)~~ (31) The definitions in IC 35-41-1 apply to all statutes relating to penal offenses.

SECTION 2. IC 4-15-2-35, AS AMENDED BY P.L.222-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 35. (a) This section does not apply to an employee who has been suspended or terminated by the ethics commission.

(b) Any regular employee may file a complaint if the employee's status of employment is involuntarily changed or if the employee deems conditions of employment to be unsatisfactory. However, the complaint procedure shall be initiated as soon as possible after the occurrence of the act or condition complained of and in no event shall be initiated more than thirty (30) calendar days after the employee is notified of a change in the status of employment or after an unsatisfactory condition of employment is created. Failure to initiate the complaint procedure within this time period shall render the complaint procedure unavailable to the employee. The following complaint procedure shall be followed:

Step I: The complaint procedure shall be initiated by a discussion of the complaint by the employee and the employee's immediate supervisor and, if a mutually satisfactory settlement has not been made within two (2) consecutive working days, the complaint may be referred to Step II.

Step II: The complaint shall be reduced to writing and presented to the intermediate supervisor. If a mutually satisfactory settlement has not been reached within four (4) consecutive working days, such

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complaint may then be referred to the appointing authority.

Step III: The appointing authority or the appointing authority's designee shall hold a hearing, if necessary, and conduct whatever investigation the appointing authority or the appointing authority's designee considers necessary to render a decision. The appointing authority or the appointing authority's designee must render a decision in writing not later than ten (10) business days from the date of the hearing, if applicable, or close of the investigation, whichever occurs later.

If the appointing authority or the appointing authority's designee does not find in favor of the employee, the complaint may be submitted within fifteen (15) calendar days to the state personnel director. The director or the director's designee shall review the complaint and render a decision not later than fifteen (15) calendar days after the director or the director's designee receives the complaint. If the decision is not agreeable to the employee, an appeal may be submitted by the employee in writing to the commission not later than fifteen (15) calendar days from the date the employee has been given notice of the action taken by the personnel director or the director's designee. After submission of the appeal, the commission shall, prior to rendering its decision, grant the appealing employee and the appointing authority a public hearing, with the right to be represented and to present evidence. With respect to all appeals, the commission shall render its decision within thirty (30) days after the date of the hearing on the appeal. If the commission finds that the action against the employee was taken on the basis of politics, religion, sex, age, race, **sexual orientation, gender identity, ancestry, or national origin**, or because of membership in an employee organization, the employee shall be reinstated without loss of pay. In all other cases the appointing authority shall follow the recommendation of the commission, which may include reinstatement and payment of salary or wages lost by the employee, which may be mitigated by any wages the employee earned from other employment during a dismissed or suspended period.

If the recommendation of the commission is not agreeable to the employee, the employee, within fifteen (15) calendar days from receipt of the commission recommendation, may elect to submit the complaint to arbitration. The cost of arbitration shall be shared equally by the employee and the state of Indiana. The commissioner of labor shall prepare a list of three (3) impartial individuals trained in labor relations, and from this list each party shall strike one (1) name. The remaining arbitrator shall consider the issues which were presented to the commission and shall afford the parties a public hearing with the

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right to be represented and to present evidence. The arbitrator's findings and recommendations shall be binding on both parties and shall immediately be instituted by the commission.

SECTION 3. IC 4-15-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Appointments to and promotions in engineering positions in the engineering service of any department, commission, bureau, board, or division of the state of Indiana shall be made only according to merit and fitness. No person in the engineering service of any department, commission, bureau, board, or division of the state of Indiana or seeking admission thereto, shall be appointed, promoted, or in any way favored or discriminated against because of ~~his~~ **the person's** race, religion, color, sex, **sexual orientation, gender identity**, national origin, or ancestry.

SECTION 4. IC 4-15-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The state is committed to an affirmative action policy that includes the establishment of employment policies and conditions that ensure the elimination of underutilization of qualified members of affected classes and the elimination of discrimination on the basis of race or color, religion, national origin, ~~or~~ ancestry, age, sex, **sexual orientation, gender identity**, and disability.

SECTION 5. IC 5-16-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Every contract for or on behalf of the state of Indiana or any of the municipal corporations thereof, for the construction, alteration, or repair of any public building or public work in the state of Indiana shall contain provisions by which the contractor agrees:

~~(a)~~ **(1)** that in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, or subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, religion, color, sex, **sexual orientation, gender identity**, national origin, or ancestry, discriminate against any citizen of the state of Indiana who is qualified and available to perform the work to which the employment relates;

~~(b)~~ **(2)** that no contractor, subcontractor, nor any person on ~~his~~ **of the contractor or the subcontractor** shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, religion, color, sex, **sexual orientation, gender identity**, national origin, or ancestry;

~~(c)~~ **(3)** that there may be deducted from the amount payable to the

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contractor by the state of Indiana or by any municipal corporation thereof, under this contract, a penalty of five dollars ~~(\$5.00)~~ (\$5) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract; and

~~(d)~~ (4) that this contract may be ~~cancelled~~ **canceled** or terminated by the state of Indiana or by any municipal corporation thereof, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract.

SECTION 6. IC 5-28-21-7, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. A political subdivision (as defined in IC 36-1-2-13), a nonprofit organization, or a for-profit organization may submit an application to the corporation to obtain a grant, loan, or loan guarantee to establish a small business incubator. The application must:

- (1) describe the facility that is to be converted to an incubator;
- (2) specify the cost of the conversion;
- (3) demonstrate the ability of the applicant to directly provide or arrange for the provision of business development services (including financial consulting assistance, management and marketing assistance, and physical services) for tenants of the incubator;
- (4) demonstrate a potential for sustained use of the incubator by eligible tenants through a market study or other means;
- (5) demonstrate the ability of the applicant to operate the incubator in accordance with section 19 of this chapter;
- (6) state that the applicant will not discriminate against an employee or applicant for employment on the basis of race, religion, color, national origin, **ancestry**, sex, **sexual orientation**, **gender identity**, or age; and
- (7) include any other information required by the corporation.

SECTION 7. IC 7.1-3-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Notwithstanding any other law, a beer retailer may limit sales to the following:

- (1) Persons that the retailer selects to have access to the retailer's facilities and services in return for payment of an annual fee to the retailer.
  - (2) Guests of a person described in subdivision (1).
- (b) A beer retailer may call the annual fee described in subsection (a) a membership fee.
- (c) A beer retailer may call the retailer's premises a club. However,

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the premises is not a club within the meaning of IC 7.1-3-20-1.

(d) This section does not allow a beer retailer to discriminate among persons on the basis of race, sex, age, **sexual orientation, gender identity, national origin, ancestry**, or religion when selecting persons to have access to the retailer's facilities and services.

SECTION 8. IC 7.1-3-9-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.5. (a) Notwithstanding any other law, a liquor retailer may limit sales to the following:

(1) Persons that the retailer selects to have access to the retailer's facilities and services in return for payment of an annual fee to the retailer.

(2) Guests of a person described in subdivision (1).

(b) A liquor retailer may call the annual fee described in subsection (a) a membership fee.

(c) A liquor retailer may call the retailer's premises a club. However, the premises is not a club within the meaning of IC 7.1-3-20-1.

(d) This section does not allow a liquor retailer to discriminate among persons on the basis of race, sex, **sexual orientation, gender identity, age, national origin, ancestry**, or religion when selecting persons to have access to the retailer's facilities and services.

SECTION 9. IC 7.1-3-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Notwithstanding any other law, a wine retailer may limit sales to the following:

(1) Persons that the retailer selects to have access to the retailer's facilities and services in return for payment of an annual fee to the retailer.

(2) Guests of a person described in subdivision (1).

(b) A wine retailer may call the annual fee described in subsection (a) a membership fee.

(c) A wine retailer may call the retailer's premises a club. However, the premises is not a club within the meaning of IC 7.1-3-20-1.

(d) This section does not allow a wine retailer to discriminate among persons on the basis of race, sex, **sexual orientation, gender identity, age, national origin, ancestry**, or religion when selecting persons to have access to the retailer's facilities and services.

SECTION 10. IC 7.1-3-20-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8.5. (a) As used in this section, "discriminatory practice" means a refusal to provide equal access to and use of services or facilities on the basis of a person's race, or color, **sex, sexual orientation, gender identity, national origin, or ancestry**. However, the term does not include a practice of a club or

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1 fraternal club that requires a specific religious affiliation or belief as a  
2 condition of membership in the club or fraternal club.

3 (b) To be eligible to hold a club permit under this chapter, a club,  
4 fraternal club, or labor organization may not engage in a discriminatory  
5 practice.

6 (c) A person may file a complaint with the civil rights commission  
7 alleging a discriminatory practice by a club, fraternal club, or labor  
8 organization.

9 (d) The civil rights commission shall investigate the allegations in  
10 the complaint and, if reasonable cause is found, shall hold a hearing  
11 under IC 22-9-1-6 on the complaint. If the civil rights commission finds  
12 that a club, fraternal club, or labor organization has engaged in a  
13 discriminatory practice, the civil rights commission shall certify the  
14 finding to the alcohol and tobacco commission.

15 (e) If a club, fraternal club, or labor organization is found to have  
16 engaged in a discriminatory practice, the commission shall do one (1)  
17 or more of the following:

18 (1) Issue a warning to the club, fraternal club, or labor  
19 organization.

20 (2) Impose a civil penalty on the club, fraternal club, or labor  
21 organization not to exceed one thousand dollars (\$1,000).

22 (3) Suspend the club, fraternal club, or labor organization's permit  
23 for not more than ninety (90) days.

24 (4) Not issue a new club permit under this chapter if the club,  
25 fraternal club, or labor organization does not hold a club permit  
26 under this chapter.

27 (5) Revoke an existing club permit.

28 SECTION 11. IC 8-23-2-3 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The department  
30 may hire qualified individuals to carry out its responsibilities subject  
31 to the budget agency's approval under IC 4-12-1-13 and may prescribe  
32 their terms and conditions of employment subject to this section.

33 (b) All employees of the department whose duties require  
34 specialized knowledge or skill, acquired by professional or technical  
35 education, training, and experience:

36 (1) shall be employed solely on the basis of ability, taking into  
37 account their qualifications to perform the duties of their  
38 positions;

39 (2) shall be employed regardless of political affiliation;

40 (3) may not be appointed, promoted, reduced, removed, or in any  
41 way favored or discriminated against because of their political  
42 affiliation, race, religion, color, sex, **sexual orientation, gender**

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**identity**, national origin, or ancestry;

(4) are ineligible to hold, or be a candidate for, elected office (as defined in IC 3-5-2-17) while employed by the department, except as provided in subsection (h);

(5) may not solicit or receive political contributions;

(6) may not be required to make contributions for or participate in political activities;

(7) shall be employed on a six (6) month probationary period, with a written evaluation prepared after five (5) months of service by their immediate supervisor for the commissioner to determine if employment should continue beyond the probationary period; and

(8) shall be evaluated annually in writing by their immediate supervisor for the purpose of advising the commissioner as to whether the employees should remain in their positions.

(c) Highway district managers and subdistrict superintendents are not subject to subsection (b). A person may not be employed by the department as a highway subdistrict superintendent unless the person has received training or experience in maintaining or constructing roads, highways, and bridges. Highway subdistrict superintendents shall devote full time to the performance of their duties. Highway district managers serve at the pleasure of the commissioner but upon reassignment shall be retained in a position of equal or higher job classification within the department. However, the employee may elect to serve in the next lower job classification within the same district.

(d) The appointment or dismissal of the chief highway engineer for the department is at the discretion of the commissioner. The chief highway engineer must be a registered professional engineer and must be a graduate civil engineer or have at least ten (10) years of experience in highway engineering.

(e) All employees of the department are subject to IC 4-15-1.8 and the rules that implement IC 4-15-1.8.

(f) Subject to this section:

(1) all employees of the department are subject to demotion, discipline, dismissal, or transfer at the discretion of the commissioner; and

(2) cause for demotion, dismissal, discipline, or transfer may include but is not limited to failure to satisfactorily effectuate the department's transportation plan and work programs.

(g) The commissioner may:

(1) require an employee or agent of the department to execute and furnish a bond conditioned upon the faithful discharge and

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performance of the duties of the employee or agent and the accurate accounting of public funds that come into the employee's or agent's control or custody; and

(2) prescribe an oath of employment for an employee or agent of the department.

(h) Employees described in subsection (b) may:

(1) be candidates for:

(A) school board office (as defined in IC 3-5-2-45); or

(B) precinct committeeman or state convention delegate;

and serve in that office if elected; and

(2) be appointed to an office described in subdivision (1) and serve in that office if appointed.

SECTION 12. IC 10-13-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "bias crime" means an offense in which the person who commits the offense knowingly or intentionally:

(1) selected the person who was injured; or

(2) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, **ancestry**, race, religion, ~~or~~ sexual orientation, **or gender identity** of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

SECTION 13. IC 10-16-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) Adequate provisions shall be made to allow the enlistment and induction of able bodied citizens of each and all racial groups in Indiana into all branches and departments of the Indiana guard reserve organized to defend and enforce the laws of Indiana. To that end, all racial groups in Indiana are entitled to that representation in each branch or department of the Indiana guard reserve in approximate proportion to the group or groups to the population of Indiana. However, this section or any other statute may not be construed so as to allow racial segregation.

(b) Race, ~~or~~ color, **creed, sex, sexual orientation, gender identity, national origin, or ancestry** may not be a cause for excluding the application to serve or the service of any person in any branch of service provided for in this chapter.

SECTION 14. IC 12-20-5.5-1, AS AMENDED BY P.L.73-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The township trustee shall process all

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1 applications for township assistance according to uniform written  
 2 standards and without consideration of the race, creed, nationality,  
 3 **national origin, ancestry, sex, sexual orientation**, or gender **identity**  
 4 of the applicant or any member of the applicant's household.

5 (b) The township's standards for the issuance of township assistance  
 6 and the processing of applications must be:

- 7 (1) governed by the requirements of this article;
- 8 (2) proposed by the township trustee, adopted by the township  
 9 board, and filed with the board of county commissioners;
- 10 (3) reviewed and updated annually to reflect changes in the cost  
 11 of basic necessities in the township and changes in the law;
- 12 (4) published in a single written document, including addenda  
 13 attached to the document; and
- 14 (5) posted in a place prominently visible to the public in all  
 15 offices of the township trustee where township assistance  
 16 applications are taken or processed.

17 SECTION 15. IC 12-30-3-14 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) Admission of all  
 19 patients and residents to the county home must be on a voluntary basis  
 20 and without regard to race, religion, color, sex, **sexual orientation**,  
 21 **gender identity**, national origin, or ancestry.

22 (b) Recipients of old age assistance and blind assistance shall be  
 23 admitted to the county home on the same basis and for the same charge  
 24 as other patients and residents in the county home. There may be no  
 25 discrimination in the care and treatment of patients and residents of the  
 26 county home because of the source of the money for the support and  
 27 care of the patients and residents.

28 SECTION 16. IC 12-30-7-32 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. Discrimination may  
 30 not be made in accommodation, care, or treatment of any patient at a  
 31 health center established under this chapter because of race, creed,  
 32 national origin, **ancestry, sex, sexual orientation, gender identity**, or  
 33 ability to pay.

34 SECTION 17. IC 16-23-1-21 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) The hospital  
 36 may not discriminate among patients due to the following:

- 37 (1) Race, color, **creed, national origin, ancestry, sexual**  
 38 **orientation, gender identity**, or sex.
- 39 (2) Occupational, economic, or social status.
- 40 (3) Political or religious belief or the lack of political or religious  
 41 belief.

42 (b) The hospital must also be open to all licensed physicians of the

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1 county and the patients of licensed physicians on equal terms and under  
2 uniform rules.

3 SECTION 18. IC 20-12-14.5-3 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A student who  
5 applies for admission to the academy must:

- 6 (1) be eligible to attend a public school in Indiana;
- 7 (2) demonstrate exceptional intellectual ability; and
- 8 (3) demonstrate a commitment to scholarship.

9 (b) A student shall be admitted without regard to sex, race, religion,  
10 creed, national origin, **ancestry, sexual orientation, gender identity,**  
11 or household income.

12 SECTION 19. IC 20-12-21-5 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The commission  
14 shall:

- 15 (1) prepare and supervise the issuance of public information
- 16 concerning this chapter;
- 17 (2) prescribe the form and regulate the submission of applications
- 18 for higher education awards;
- 19 (3) conduct such conferences and interviews with applicants as
- 20 may be appropriate;
- 21 (4) determine the eligibility of applicants;
- 22 (5) select qualified applicants;
- 23 (6) determine the respective amounts of, and award, the
- 24 appropriate higher education awards;
- 25 (7) determine eligibility for, and award, annual renewals of higher
- 26 education awards;
- 27 (8) act as the designated state agency for participation in any
- 28 federal program for reinsurance of student loans; and
- 29 (9) adopt rules, under IC 4-22-2, to develop standards that govern
- 30 the denial of assistance to higher education award applicants and
- 31 recipients under section 7.6 of this chapter.

32 (b) The commission may:

- 33 (1) make such rules as may be necessary to carry out its functions
- 34 under this chapter; and
- 35 (2) appoint advisory boards as it considers necessary.

36 (c) The commission shall exercise its functions without regard to an  
37 applicant's race, creed, sex, **sexual orientation, gender identity,** color,  
38 national origin, or ancestry.

39 SECTION 20. IC 20-12-21-5.1, AS AMENDED BY P.L.157-2005,  
40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2007]: Sec. 5.1. (a) In addition to the duties described in  
42 section 5(a) of this chapter, the commission shall do the following:

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(1) Prepare and supervise the issuance of public information concerning all of the commission's programs.

(2) Prescribe the form and regulate the submission of applications for all of the commission's programs.

(3) Determine the amounts of grants and scholarships.

(4) Determine eligibility for grants and scholarships.

(5) Receive federal funds made available to the commission for awards, grants, and scholarships, and disburse these funds in the manner prescribed by federal law.

(b) In addition to the powers described in section 5(b) of this chapter, the commission may do the following:

(1) Accept gifts, grants, devises, or bequests for the purpose of providing grants, awards, scholarships, loans, or other forms of financial aid to students attending approved institutions of higher learning.

(2) Enter into contracts, subject to IC 4-13-2, that the commission determines are necessary to carry out the commission's functions.

(3) Provide administrative or technical assistance to other governmental or nongovernmental entities if the provision of this assistance will increase the number and value of grants, awards, scholarships, or loans available to students attending approved institutions of higher learning.

(c) When the commission receives an offer of a gift, grant, devise, or bequest under subsection (b)(1), the commission may accept stipulations on the use of the donated funds. In this case, sections 7(d) and 17 of this chapter do not apply. Before accepting a gift, grant, devise, or bequest, the commission shall determine that the purposes for which a donor proposes to provide funds are:

(1) lawful;

(2) in the state's best interests; and

(3) generally consistent with the commission's programs and purposes.

Whenever the commission agrees to stipulations on the use of donated funds under this subsection, the commission and the donor shall, subject to approval by the budget agency and the governor or the governor's designee, execute an agreement.

(d) Whenever the commission agrees to provide administrative or technical assistance under subsection (b)(3), the commission and the party to whom the assistance is to be provided shall execute an agreement specifying:

(1) the assistance that is to be provided; and

(2) the charges, if any, that are to be assessed by the commission

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for providing this assistance.

The commission may waive charges for administrative or technical assistance under this subsection if the commission determines that a waiver is in the best interest of the state. Agreements to provide assistance under this subsection must be approved by the budget agency and the governor or the governor's designee.

(e) The commission shall exercise its functions without regard to an applicant's race, creed, sex, **sexual orientation, gender identity**, color, national origin, or ancestry.

(f) This subsection applies to a person called to active duty after September 11, 2001. As used in this subsection, "active duty" means full-time service in:

(1) the National Guard (as defined in IC 10-16-1-13); or

(2) any reserve component of the:

(A) Indiana national guard; or

(B) armed forces;

that exceeds thirty (30) consecutive days in a calendar year. When determining financial eligibility under subsection (a)(4) for a Frank O'Bannon grant, which includes grants formerly designated as the higher education award and the freedom of choice award, the commission may exclude any salary for service on active duty.

SECTION 21. IC 20-12-76-29, AS ADDED BY P.L.1-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 29. A postsecondary proprietary educational institution's accreditation shall be suspended at any time if the accredited postsecondary proprietary educational institution denies enrollment to a student or makes a distinction or classification of students on the basis of race, color, ~~or~~ creed, **sexual orientation, gender identity, national origin, or ancestry**.

SECTION 22. IC 20-24-2-2, AS ADDED BY P.L.1-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A charter school is subject to all federal and state laws and constitutional provisions that prohibit discrimination on the basis of the following:

(1) Disability.

(2) Race.

(3) Color.

(4) Gender.

(5) National origin.

(6) Religion.

(7) Ancestry.

**(8) Sexual orientation.**

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1           **(9) Gender identity.**

2           SECTION 23. IC 20-33-1-1, AS ADDED BY P.L.1-2005,  
3           SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4           JULY 1, 2007]: Sec. 1. The following is the public policy of the state:

5           (1) To provide equal, nonsegregated, nondiscriminatory  
6           educational opportunities and facilities for all, regardless of race,  
7           creed, national origin, **ancestry**, color, ~~or~~ sex, **sexual orientation**,  
8           **or gender identity.**

9           (2) To provide and furnish public schools and common schools  
10          equally open to all and prohibited and denied to none because of  
11          race, creed, color, ~~or~~ national origin, **ancestry**, **sexual**  
12          **orientation, or gender identity.**

13          (3) To reaffirm the principles of the Bill of Rights, civil rights,  
14          and the Constitution of the State of Indiana.

15          (4) To provide for the state and the citizens of Indiana a uniform  
16          democratic system of public and common school education.

17          (5) To abolish, eliminate, and prohibit segregated and separate  
18          schools or school districts on the basis of race, creed, ~~or~~ color,  
19          **national origin, ancestry, sexual orientation, or gender**  
20          **identity.**

21          (6) To eliminate and prohibit segregation, separation, and  
22          discrimination on the basis of race, color, ~~or~~ creed, **national**  
23          **origin, ancestry, sexual orientation, or gender identity** in the  
24          public kindergartens, common schools, public schools, vocational  
25          schools, colleges, and universities of Indiana.

26          SECTION 24. IC 20-33-1-3, AS ADDED BY P.L.1-2005,  
27          SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28          JULY 1, 2007]: Sec. 3. (a) The governing body of a school corporation  
29          and the board of trustees of a college or university may not build or  
30          erect, establish, maintain, continue, or permit any segregated or  
31          separate:

32               (1) public kindergartens;

33               (2) public schools or districts;

34               (3) public school departments or divisions; or

35               (4) colleges or universities;

36          on the basis of race, color, creed, ~~or~~ national origin, **ancestry, sexual**  
37          **orientation, or gender identity** of pupils or students.

38          (b) The officials described in subsection (a) may take any  
39          affirmative actions that are reasonable, feasible, and practical to effect  
40          greater integration and to reduce or prevent segregation or separation  
41          of races in public schools for whatever cause, including:

42               (1) site selection; or

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- (2) revision of:
- (A) school districts;
  - (B) curricula; or
  - (C) enrollment policies;

to implement equalization of educational opportunity for all.

(c) A school corporation shall review the school corporation's programs to determine if the school corporation's practices of:

- (1) separating students by ability;
- (2) placing students into educational tracks; or
- (3) using test results to screen students;

have the effect of systematically separating students by race, color, creed, national origin, **ancestry, sexual orientation, gender identity,** or socioeconomic class.

SECTION 25. IC 20-33-1-4, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A student is entitled to be admitted and enrolled in the public or common school in the school corporation in which the student resides without regard to race, creed, color, socioeconomic class, ~~or~~ national origin, **ancestry, sexual orientation, or gender identity.**

(b) A student may not be prohibited, segregated, or denied attendance or enrollment to:

- (1) a:
  - (A) public school;
  - (B) common school;
  - (C) junior high school; or
  - (D) high school;
 in the student's school corporation; or
- (2) a college or university in Indiana;

because of the student's race, creed, color, ~~or~~ national origin, **ancestry, sexual orientation, or gender identity.**

(c) Every student is free to attend:

- (1) a:
  - (A) public school; or
  - (B) department or division of a public school; or
- (2) college or university in Indiana;

within the laws applicable alike to noncitizen and nonresident students.

SECTION 26. IC 20-33-1-5, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A:

- (1) public school;
- (2) state college; or

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(3) state university;  
may not segregate, separate, or discriminate against any of its students on the basis of race, creed, ~~or~~ color, **national origin, ancestry, sexual orientation, or gender identity.**

(b) Admission to a public school may not be approved or denied on the basis of race, creed, ~~or~~ color, **national origin, ancestry, sexual orientation, or gender identity.**

SECTION 27. IC 20-33-1-6, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. A:

- (1) public school;
- (2) state college; or
- (3) state university;

may not discriminate in any way in the hiring, upgrading, tenure, or placement of any teacher on the basis of race, creed, color, ~~or~~ national origin, **ancestry, sex, sexual orientation, or gender identity.**

SECTION 28. IC 20-42-3-10, AS ADDED BY P.L.2-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. The trustee, with the advice and consent of the township board, shall use the account for the following educational purposes:

(1) Each year the trustee shall pay to the parent or legal guardian of any child whose residence is within the township, the initial cost for the rental of textbooks used in any elementary or secondary school that has been accredited by the state. The reimbursement for the rental of textbooks shall be for the initial yearly rental charge only. Textbooks subsequently lost or destroyed may not be paid for from this account.

(2) Students who are residents of the township for the last two (2) years of their secondary education and who still reside within the township are entitled to receive financial assistance in an amount not to exceed an amount determined by the trustee and the township board during an annual review of higher education fees and tuition costs of post-high school education at any accredited college, university, junior college, or vocational or trade school. Amounts to be paid to each eligible student shall be set annually after this review. The amount paid each year must be:

(A) equitable for every eligible student without regard to race, religion, creed, sex, **sexual orientation, gender identity, ancestry,** disability, or national origin; and

(B) based on the number of students and the amount of funds available each year.

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(3) A person who has been a permanent resident of the township continuously for at least two (2) years and who needs educational assistance for job training or retraining may apply to the trustee of the township for financial assistance. The trustee and the township board shall review each application and make assistance available according to the need of each applicant and the availability of funds.

(4) If all the available funds are not used in any one (1) year, the unused funds shall be retained in the account by the trustee for use in succeeding years.

SECTION 29. IC 22-9-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) It is the public policy of the state to provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations, and acquisition through purchase or rental of real property, including but not limited to housing, and to eliminate segregation or separation based solely on race, religion, color, sex, **sexual orientation, gender identity**, disability, national origin, or ancestry, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights.

(b) The practice of denying these rights to properly qualified persons by reason of the race, religion, color, sex, **sexual orientation, gender identity**, disability, national origin, or ancestry of such ~~person~~ **persons** is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of this state and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, **sexual orientation, gender identity**, disability, national origin, or ancestry through reasonable methods is the purpose of this chapter.

(c) It is also the public policy of this state to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders, and lending institutions from unfounded charges of discrimination.

(d) It is hereby declared to be contrary to the public policy of the state and an unlawful practice for any person, for profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, **sexual orientation, gender identity**, disability, national origin, or ancestry.

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(e) The general assembly recognizes that on February 16, 1972, there are institutions of learning in Indiana presently and traditionally following the practice of limiting admission of students to males or to females. It is further recognized that it would be unreasonable to impose upon these institutions the expense of remodeling facilities to accommodate students of both sexes, and that educational facilities of similar quality and type are available in coeducational institutions for those students desiring such facilities. It is further recognized that this chapter is susceptible of interpretation to prevent these institutions from continuing their traditional policies, a result not intended by the general assembly. Therefore, the amendment effected by Acts 1972, P.L.176, is desirable to permit the continuation of the policies described.

(f) This chapter shall be construed broadly to effectuate its purpose.

SECTION 30. IC 22-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this chapter:

(a) "Person" means one (1) or more individuals, partnerships, associations, organizations, limited liability companies, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons.

(b) "Commission" means the civil rights commission created under section 4 of this chapter.

(c) "Director" means the director of the civil rights commission.

(d) "Deputy director" means the deputy director of the civil rights commission.

(e) "Commission attorney" means the deputy attorney general, such assistants of the attorney general as may be assigned to the commission, or such other attorney as may be engaged by the commission.

(f) "Consent agreement" means a formal agreement entered into in lieu of adjudication.

(g) "Affirmative action" means those acts that the commission determines necessary to assure compliance with the Indiana civil rights law.

(h) "Employer" means the state or any political or civil subdivision thereof and any person employing six (6) or more persons within the state, except that the term "employer" does not include:

(1) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;

(2) any school, educational, or charitable religious institution

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owned or conducted by or affiliated with a church or religious institution; or

(3) any exclusively social club, corporation, or association that is not organized for profit.

(i) "Employee" means any person employed by another for wages or salary. However, the term does not include any individual employed:

(1) by ~~his~~ **the individual's** parents, spouse, or child; or

(2) in the domestic service of any person.

(j) "Labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or for other mutual aid or protection in relation to employment.

(k) "Employment agency" means any person undertaking with or without compensation to procure, recruit, refer, or place employees.

(l) "Discriminatory practice" means:

(1) the exclusion of a person from equal opportunities because of race, religion, color, sex, **sexual orientation, gender identity**, disability, national origin, or ancestry;

(2) a system that excludes persons from equal opportunities because of race, religion, color, sex, **sexual orientation, gender identity**, disability, national origin, or ancestry;

(3) the promotion of racial segregation or separation in any manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, **sexual orientation, gender identity**, disability, national origin, or ancestry; or

(4) a violation of IC 22-9-5 that ~~occurs after July 25, 1992, and~~ is committed by a covered entity (as defined in IC 22-9-5-4).

Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment, or the extending of credit (as defined in IC 24-4.5-1-301) shall be considered unlawful unless it is specifically exempted by this chapter.

(m) "Public accommodation" means any establishment that caters or offers its services or facilities or goods to the general public.

(n) "Complainant" means:

(1) any individual charging on ~~his~~ **the individual's** own behalf to have been personally aggrieved by a discriminatory practice; or

(2) the director or deputy director of the commission charging that a discriminatory practice was committed against a person other than ~~himself~~ **the director or deputy director** or a class of people,

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in order to vindicate the public policy of the state (as defined in section 2 of this chapter).

(o) "Complaint" means any written grievance that is:

- (1) sufficiently complete and filed by a complainant with the commission; or
- (2) filed by a complainant as a civil action in the circuit or superior court having jurisdiction in the county in which the alleged discriminatory practice occurred.

The original of any complaint filed under subdivision (1) shall be signed and verified by the complainant.

(p) "Sufficiently complete" refers to a complaint that includes:

- (1) the full name and address of the complainant;
- (2) the name and address of the respondent against whom the complaint is made;
- (3) the alleged discriminatory practice and a statement of particulars thereof;
- (4) the date or dates and places of the alleged discriminatory practice and if the alleged discriminatory practice is of a continuing nature the dates between which continuing acts of discrimination are alleged to have occurred; and
- (5) a statement as to any other action, civil or criminal, instituted in any other form based upon the same grievance alleged in the complaint, together with a statement as to the status or disposition of the other action.

No complaint shall be valid unless filed within one hundred eighty (180) days from the date of the occurrence of the alleged discriminatory practice.

(q) "Sex" as it applies to segregation or separation in this chapter applies to all types of employment, education, public accommodations, and housing. However:

- (1) it shall not be a discriminatory practice to maintain separate rest rooms;
- (2) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, a labor organization, or a joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that

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1 particular business or enterprise; and

2 (3) it shall not be a discriminatory practice for a private or  
3 religious educational institution to continue to maintain and  
4 enforce a policy of admitting students of one (1) sex only.

5 (r) "Disabled" or "disability" means the physical or mental condition  
6 of a person that constitutes a substantial disability. In reference to  
7 employment, under this chapter, "disabled or disability" also means the  
8 physical or mental condition of a person that constitutes a substantial  
9 disability unrelated to the person's ability to engage in a particular  
10 occupation.

11 SECTION 31. IC 22-9-1-6 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The commission  
13 shall establish and maintain a permanent office in the city of  
14 Indianapolis.

15 (b) The commission may appoint such attorneys and other  
16 employees and agents as it considers necessary, fix their compensation  
17 within the limitation provided by law, and prescribe their duties. All  
18 these employees, with the exception of the executive director and  
19 attorneys, shall be appointed by the commission from eligible lists to  
20 be promulgated by the department of personnel as the result of a  
21 competitive examination held under IC 4-15-2 and rules of the  
22 department and on the basis of training, practical experience,  
23 education, and character. However, special consideration and due  
24 weight shall be given to the practical experience and training that a  
25 person may have for the particular position involved regardless of ~~his~~  
26 **the person's** academic training. Promotions, suspensions, and removal  
27 of persons appointed from such lists shall be in accordance with  
28 IC 4-15-2. The reasonable and necessary traveling expenses of each  
29 employee of the commission while actually engaged in the performance  
30 of duties in behalf of the commission shall be paid in accordance with  
31 the state travel policies and procedures established by the Indiana  
32 department of administration and approved by the budget agency.

33 (c) Except as it concerns judicial review, the commission may adopt  
34 rules under IC 4-22-2 to implement this chapter.

35 (d) The commission shall formulate policies to effectuate the  
36 purposes of this chapter and make recommendations to agencies and  
37 officers of the state or local subdivisions thereof to effectuate such  
38 policies. The several departments, commissions, divisions, authorities,  
39 boards, bureaus, agencies, and officers of the state or any political  
40 subdivision or agency thereof shall furnish the commission, upon its  
41 request, all records, papers, and information in their possession relating  
42 to any matter before the commission.

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(e) The commission shall receive and investigate complaints alleging discriminatory practices. The commission shall not hold hearings in the absence of a complaint. All investigations of complaints shall be conducted by staff members of the civil rights commission or their agents.

(f) The commission may create such advisory agencies and conciliation councils, local or statewide, as will aid in effectuating the purposes of this chapter. The commission may itself, or it may empower these agencies and councils to:

(1) study the problems of discrimination in the areas covered by section 2 of this chapter when based on race, religion, color, sex, **sexual orientation, gender identity**, handicap, national origin, or ancestry; and

(2) foster through community effort, or otherwise, good will among the groups and elements of the population of the state.

These agencies and councils may make ~~recommendation~~ **recommendations** to the commission for the development of policies and procedures in general. Advisory agencies and conciliation councils created by the commission shall be composed of representative citizens serving without pay, but with reimbursement for reasonable and necessary actual expenses.

(g) The commission may issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religion, color, sex, **sexual orientation, gender identity**, handicap, national origin, or ancestry.

(h) The commission shall prevent any person from discharging, expelling, or otherwise discriminating against any other person because ~~he~~ **the person** filed a complaint, testified in any hearing before this commission, or in any way assisted the commission in any matter under its investigation.

(i) The commission may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and require the production for examination of any books and papers relating to any matter under investigation or in question before the commission. The commission may make rules as to the issuance of subpoenas by individual commissioners. Contumacy or refusal to obey a subpoena issued under this section shall constitute a contempt. All hearings shall be held within Indiana at a location determined by the commission. A citation of contempt may be issued upon application by the commission to the circuit or superior court in the county in which the hearing is held or in which the witness resides

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1 or transacts business.

2 (j) The commission may appoint administrative law judges other  
3 than commissioners, when an appointment is deemed necessary by a  
4 majority of the commission. The administrative law judges shall be  
5 members in good standing before the bar of Indiana and shall be  
6 appointed by the chairman of the commission. An administrative law  
7 judge appointed under this subsection shall have the same powers and  
8 duties as a commissioner sitting as an administrative law judge.  
9 However, the administrative law judge may not issue subpoenas.

10 (k) The commission shall state its findings of fact after a hearing  
11 and, if the commission finds a person has engaged in an unlawful  
12 discriminatory practice, shall cause to be served on this person an order  
13 requiring the person to cease and desist from the unlawful  
14 discriminatory practice and requiring the person to take further  
15 affirmative action as will effectuate the purposes of this chapter,  
16 including but not limited to the power:

17 (A) to restore complainant's losses incurred as a result of  
18 discriminatory treatment, as the commission may deem necessary  
19 to assure justice. However, this specific provision when applied  
20 to orders pertaining to employment shall include only wages,  
21 salary, or commissions;

22 (B) to require the posting of notice setting forth the public policy  
23 of Indiana concerning civil rights and respondent's compliance  
24 with the policy in places of public accommodations;

25 (C) to require proof of compliance to be filed by respondent at  
26 periodic intervals; and

27 (D) to require a person who has been found to be in violation of  
28 this chapter and who is licensed by a state agency authorized to  
29 grant a license to show cause to the licensing agency why **his the**  
30 **person's** license should not be revoked or suspended.

31 (l) Judicial review of a cease and desist order or other affirmative  
32 action as referred to in this chapter may be obtained under IC 22-9-8.  
33 If no proceeding to obtain judicial review is instituted within thirty (30)  
34 days from receipt of notice by a person that an order has been made by  
35 the commission, the commission, if it determines that the person upon  
36 whom the cease and desist order has been served is not complying or  
37 is making no effort to comply, may obtain a decree of a court for the  
38 enforcement of the order in circuit or superior court upon showing that  
39 the person is subject to the commission's jurisdiction and resides or  
40 transacts business within the county in which the petition for  
41 enforcement is brought.

42 (m) If, upon all the evidence, the commission shall find that a

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1 person has not engaged in any unlawful practice or violation of this  
 2 chapter, the commission shall state its findings of facts and shall issue  
 3 and cause to be served on the complainant an order dismissing the  
 4 complaint as to the person.

5 (n) The commission may furnish technical assistance requested by  
 6 persons subject to this chapter to further compliance with this chapter  
 7 or with an order issued thereunder.

8 (o) The commission shall promote the creation of local civil rights  
 9 agencies to cooperate with individuals, neighborhood associations, and  
 10 state, local, and other agencies, both public and private, including  
 11 agencies of the federal government and of other states.

12 (p) The commission may reduce the terms of conciliation agreed to  
 13 by the parties to writing (to be called a consent agreement) that the  
 14 parties and a majority of the commissioners shall sign. When signed,  
 15 the consent agreement shall have the same effect as a cease and desist  
 16 order issued under subsection (k). If the commission determines that a  
 17 party to the consent agreement is not complying with it, the  
 18 commission may obtain enforcement of the consent agreement in a  
 19 circuit or superior court upon showing that the party is not complying  
 20 with the consent agreement and the party is subject to the commission's  
 21 jurisdiction and resides or transacts business within the county in  
 22 which the petition for enforcement is brought.

23 (q) In lieu of investigating a complaint and holding a hearing under  
 24 this section, the commission may issue an order based on findings and  
 25 determinations by the federal Department of Housing and Urban  
 26 Development or the federal Equal Employment Opportunity  
 27 Commission concerning a complaint that has been filed with one (1) of  
 28 these federal agencies and with the commission. The commission shall  
 29 adopt by rule standards under which the commission may issue such an  
 30 order.

31 (r) Upon notice that a complaint is the subject of an action in a  
 32 federal court, the commission shall immediately cease investigation of  
 33 the complaint and may not conduct hearings or issue findings of fact or  
 34 orders concerning that complaint.

35 SECTION 32. IC 22-9-1-10 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. Every contract to  
 37 which the state or any of its political or civil subdivisions is a party,  
 38 including franchises granted to public utilities, shall contain a provision  
 39 requiring the contractor and ~~his~~ **the contractor's** subcontractors not to  
 40 discriminate against any employee or applicant for employment to be  
 41 employed in the performance of such contract, with respect to ~~his~~ **the**  
 42 **employee's or applicant's** hire, tenure, terms, conditions, or privileges

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of employment or any matter directly or indirectly related to employment, because of ~~his~~ **the employee's or applicant's** race, religion, color, sex, **sexual orientation, gender identity**, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

SECTION 33. IC 22-9-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. In addition to its power to investigate the discriminatory practices referred to in this chapter, the commission may receive written complaints of violation of this chapter or other discriminatory practices based upon race, religion, color, sex, **sexual orientation, gender identity**, national origin, or ancestry and ~~to~~ investigate such complaints as it deems meritorious, or ~~to~~ conduct such investigation in the absence of complaints whenever it deems it in the public interest. It may transmit to the general assembly its recommendations for legislation designed to aid in the removing of such discrimination.

SECTION 34. IC 22-9-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. Nothing contained herein shall be deemed to repeal any of the provisions of any law of this state relating to discrimination because of age, race or color, religion, **sex, sexual orientation, gender identity**, or country of ancestral origin. Nothing herein shall be deemed to limit, restrict, or affect the freedom of any employer in regard to: ~~(a)~~

(1) fixing compulsory retirement requirements for any class of employees at an age or ages less than seventy (70) years; ~~(b)~~

(2) fixing eligibility requirements for participation in, or enjoyment by employees of, benefits under any annuity plan or pension or retirement plan on the basis that any employee may be excluded from eligibility therefor who, at the time ~~he~~ **the employee** would otherwise become eligible for such benefits, is older than the age fixed in such eligibility requirements; or ~~(c)~~

(3) keeping age records for any such purposes.

SECTION 35. IC 22-9.5-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. This article does not prohibit a religious organization, an association, or a society or a nonprofit institution or an organization operated, supervised, or controlled by or in conjunction with a religious organization, an association, or a society from:

(1) limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion; or

(2) giving preference to persons of the same religion, unless

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membership in the religion is restricted because of race, color, ~~or~~ national origin, **ancestry, sex, sexual orientation, or gender identity.**

SECTION 36. IC 22-9.5-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. This article does not prohibit a private club not open to the public that, as an incident to the club's primary purpose, provides lodging that the club owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to the members or from giving preference to the members, unless membership in the club is restricted because of race, color, ~~or~~ national origin, **ancestry, sex, sexual orientation, or gender identity.**

SECTION 37. IC 22-9.5-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. This article does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, **sexual orientation, gender identity**, disability, familial status, **ancestry**, or national origin.

SECTION 38. IC 22-9.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A person may not refuse to sell or to rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, **sexual orientation, gender identity**, familial status, disability, **ancestry**, or national origin.

(b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental of a dwelling, because of race, color, religion, sex, **sexual orientation, gender identity**, familial status, disability, **ancestry**, or national origin.

(c) This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

SECTION 39. IC 22-9.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A person may not make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, **sexual orientation, gender identity**, disability, familial status, **ancestry**, or national origin, or an intention to make such a preference, limitation, or discrimination.

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1 SECTION 40. IC 22-9.5-5-3 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. A person may not  
 3 represent to any person because of race, color, religion, sex, **sexual**  
 4 **orientation, gender identity**, disability, familial status, **ancestry**, or  
 5 national origin that a dwelling is not available for inspection for sale or  
 6 rental when the dwelling is available for inspection.

7 SECTION 41. IC 22-9.5-5-4 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A person may not,  
 9 for profit, induce or attempt to induce a person to sell or rent a dwelling  
 10 by representations regarding the entry or prospective entry into a  
 11 neighborhood of a person of a particular race, color, religion, sex,  
 12 **sexual orientation, gender identity**, disability, familial status,  
 13 **ancestry**, or national origin.

14 SECTION 42. IC 22-9.5-5-6 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) As used in this  
 16 section, "residential real estate related transaction" means the  
 17 following:

18 (1) Making or purchasing loans or providing other financial  
 19 assistance:

20 (A) to purchase, construct, improve, repair, or maintain a  
 21 dwelling; or

22 (B) to secure residential real estate.

23 (2) Selling, brokering, or appraising residential real property.

24 (b) A person whose business includes engaging in residential real  
 25 estate related transactions may not discriminate against a person in  
 26 making a real estate related transaction available or in the terms or  
 27 conditions of a real estate related transaction because of race, color,  
 28 religion, sex, **sexual orientation, gender identity**, disability, familial  
 29 status, **ancestry**, or national origin.

30 SECTION 43. IC 22-9.5-5-7 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. A person may not  
 32 deny any person access to, or membership or participation in, a  
 33 multiple-listing service, real estate brokers' organization, or other  
 34 service, organization, or facility relating to the business of selling or  
 35 renting dwellings, or discriminate against a person in the terms or  
 36 conditions of access, membership, or participation in such an  
 37 organization, service, or facility because of race, color, religion, sex,  
 38 **sexual orientation, gender identity**, disability, familial status,  
 39 **ancestry**, or national origin.

40 SECTION 44. IC 22-9.5-10-1 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. A person commits  
 42 a Class A misdemeanor if the person, whether or not acting under color

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of law, by force or threat of force intentionally intimidates or interferes with or attempts to intimidate or interfere with a person:

(1) because of the person's race, color, religion, sex, **sexual orientation, gender identity**, disability, familial status, **ancestry**, or national origin and because the person is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings; or

(2) because the person is or has been, or to intimidate the person from:

(A) participating, without discrimination because of race, color, religion, sex, **sexual orientation, gender identity**, disability, familial status, **ancestry**, or national origin, in an activity, a service, an organization, or a facility described in subdivision (1);

(B) affording another person opportunity or protection to participate in an activity, a service, an organization, or a facility described in subdivision (1); or

(C) lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, religion, sex, **sexual orientation, gender identity**, disability, familial status, **ancestry**, or national origin, in an activity, a service, an organization, or a facility described in subdivision (1).

SECTION 45. IC 24-9-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. It is unlawful for a creditor to discriminate against any applicant with respect to any aspect of a credit transaction on the basis of race, color, religion, **ancestry**, national origin, sex, marital status, **sexual orientation, gender identity**, or age, if the applicant has the ability to contract.

SECTION 46. IC 27-2-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) An insurance company that issues property or casualty insurance shall not discriminate in the appointment of an independent insurance producer on the basis of race, color, national origin, **ancestry, sexual orientation, gender identity**, or gender.

(b) Except as provided in subsection (c), the department has exclusive jurisdiction to investigate any complaints of discrimination in the appointment of independent insurance producers in violation of subsection (a).

(c) If the commissioner of the department determines after a hearing

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that an insurance company has violated subsection (a), the commissioner may order one (1) of the following remedies:

(1) Payment of a civil penalty of not more than two thousand dollars (\$2,000) for each violation.

(2) Suspension or revocation of the insurance company's certificate of authority if the commissioner determines that the violation was willful or wanton and that similar violations have been committed by that company with a frequency that constitutes a general business practice.

(3) Any other remedy agreed to by the department and the insurance company.

(d) Any determination made by the commissioner under this section is subject to IC 4-21.5.

(e) Findings of the department under this section may not be considered as evidence in any civil action other than an appeal as provided under IC 4-21.5.

SECTION 47. IC 27-2-21-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. An insurer that uses credit information to underwrite or rate risks shall not do the following:

(1) Use an insurance score that is calculated using income, gender, address, ZIP code, ethnic group, religion, marital status, **sexual orientation, gender identity, ancestry**, or nationality of the consumer as a factor.

(2) Deny, cancel, or decline to renew a personal insurance policy solely on the basis of credit information.

(3) Base an insured's renewal rate for a personal insurance policy solely on credit information.

(4) Take an adverse action against a consumer solely because the consumer does not have a credit card account.

(5) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating a personal insurance policy, unless the insurer does one (1) of the following:

(A) Presents to the commissioner information that the absence or inability relates to the risk for the insurer and treats the consumer as approved by the commissioner.

(B) Treats the consumer as if the consumer had neutral credit information, as defined by the insurer.

(6) Take an adverse action against a consumer based on credit information unless the insurer obtains and uses:

(A) a credit report issued; or

(B) an insurance score calculated;

not more than ninety (90) days before the date the personal

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insurance policy is first written or the renewal is issued.

(7) Use credit information unless the insurer recalculates the insurance score or obtains an updated credit report at least every thirty-six (36) months. However, the following apply:

(A) At annual renewal, upon the request of an insured or the insured's agent, the insurer shall re-underwrite and re-rate the personal insurance policy based on a current credit report or insurance score unless one (1) of the following applies:

(i) The insurer's treatment of the consumer is otherwise approved by the commissioner.

(ii) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers.

(iii) Credit information was not used for underwriting or rating the insured when the personal insurance policy was initially written.

(iv) The insurer reevaluates the insured at least every thirty-six (36) months after a personal insurance policy is issued based on underwriting or rating factors other than credit information.

This clause does not require an insurer to recalculate an insurance score or obtain an updated credit report of a consumer more frequently than one (1) time in a twelve (12) month period.

(B) An insurer may obtain current credit information upon the renewal of a personal insurance policy when renewal occurs more frequently than every thirty-six (36) months if consistent with the insurer's underwriting guidelines.

(8) Use the following as a negative factor in an insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a personal insurance policy:

(A) A credit inquiry:

(i) not initiated by the consumer; or

(ii) requested by the consumer for the consumer's own credit information.

(B) A credit inquiry relating to insurance coverage.

(C) A collection account with a medical industry code on the consumer's credit report.

(D) Multiple lender inquiries:

(i) coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry; and

(ii) made within thirty (30) days of one another.

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(E) Multiple lender inquiries:

(i) coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry; and

(ii) made within thirty (30) days of one another.

SECTION 48. IC 27-7-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. Termination of property insurance coverage by an insurer is prohibited if the termination is based on any of the following:

(1) Upon the race, religion, nationality, **ancestry**, ethnic group, age, sex, **sexual orientation**, **gender identity**, or marital status of the applicant or named insured.

(2) Solely upon the lawful occupation or profession of the applicant or named insured. However, this subdivision does not apply to an insurer that limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions.

(3) Upon the age or location of the residence of the applicant or named insured, unless that decision is for a business purpose that is not a mere pretext for a decision based on factors prohibited in this chapter or any other provision of this title.

(4) Upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured.

(5) Upon the fact that the applicant or named insured previously obtained insurance coverage through a residual market insurance mechanism.

SECTION 49. IC 31-9-2-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 51. "Hard to place child" or "hard to place children", for purposes of IC 31-19, means a child who is or children who are disadvantaged:

(1) because of:

(A) ethnic background;

(B) race;

(C) color;

(D) language;

(E) physical, mental, or medical disability; or

**(F) creed;**

**(G) sex;**

**(H) sexual orientation;**

**(I) gender identity;**

**(J) ancestry; or**

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- 1           ~~(F)~~ **(K)** age; or  
 2           (2) because the child or children are members of a sibling group  
 3           that should be placed in the same home.

4           SECTION 50. IC 31-19-8-6 IS AMENDED TO READ AS  
 5           FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The agency's  
 6           report must, to the extent possible, include the following:

- 7           (1) The former environment and antecedents of the child.  
 8           (2) The fitness of the child for adoption.  
 9           (3) Whether the child is classified as hard to place:  
 10           (A) because of the child's ethnic background, race, color,  
 11           language, physical, mental or medical disability, **sex, sexual**  
 12           **orientation, gender identity, ancestry, national origin,** or  
 13           age; or  
 14           (B) because the child is a member of a sibling group that  
 15           should be placed in the same home.

- 16           (4) The suitability of the proposed home for the child.  
 17           (b) The report may not contain any of the following:

- 18           (1) Information concerning the financial condition of the parents.  
 19           (2) A recommendation that a request for a subsidy be denied in  
 20           whole or in part due to the financial condition of the parents.

- 21           (c) The criminal history information required under IC 31-19-2-7.5  
 22           must accompany the report.

23           SECTION 51. IC 33-28-4-8, AS AMENDED BY P.L.4-2006,  
 24           SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25           JULY 1, 2007]: Sec. 8. (a) A prospective juror is disqualified to serve  
 26           on a jury if any of the following conditions exist:

- 27           (1) The person is not a citizen of the United States, at least  
 28           eighteen (18) years of age, and a resident of the county.  
 29           (2) The person is unable to read, speak, and understand the  
 30           English language with a degree of proficiency sufficient to fill out  
 31           satisfactorily a juror qualification form.  
 32           (3) The person is incapable of rendering satisfactory jury service  
 33           due to physical or mental disability. However, a person claiming  
 34           this disqualification may be required to submit a physician's or  
 35           authorized Christian Science practitioner's certificate confirming  
 36           the disability, and the certifying physician or practitioner is then  
 37           subject to inquiry by the court at the court's discretion.  
 38           (4) The person is under a sentence imposed for an offense.  
 39           (5) A guardian has been appointed for the person under IC 29-3  
 40           because the person has a mental incapacity.  
 41           (6) The person has had rights revoked by reason of a felony  
 42           conviction and the rights have not been restored.

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(b) A person scheduled to appear for jury service has the right to defer the date of the person's initial appearance for jury service one (1) time upon a showing of hardship, extreme inconvenience, or necessity. The court shall grant a prospective juror's request for deferral if the following conditions are met:

(1) The prospective juror has not previously been granted a deferral.

(2) The prospective juror requests a deferral by contacting the jury commissioner:

(A) by telephone;

(B) by electronic mail;

(C) in writing; or

(D) in person.

(3) The prospective juror selects another date on which the prospective juror will appear for jury service that is:

(A) not more than one (1) year after the date upon which the prospective juror was originally scheduled to appear; and

(B) a date when the court will be in session.

(4) The court determines that the prospective juror has demonstrated that a deferral is necessary due to:

(A) hardship;

(B) extreme inconvenience; or

(C) necessity.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, **sexual orientation, gender identity, ancestry**, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections (h), (i), and (l), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

(1) after the person is no longer under a sentence imposed for an

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offense; or

(2) after the person has had the person's rights restored following a conviction.

(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (i) or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

SECTION 52. IC 33-28-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. A citizen may not be

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1 excluded from jury service in counties affected by this chapter on  
 2 account of race, color, religion, sex, **sexual orientation, gender**  
 3 **identity, ancestry**, national origin, or economic status.

4 SECTION 53. IC 33-41-1-2 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A person may not  
 6 be considered ineligible to serve as official reporter because of the  
 7 person's gender, **race, creed, sexual orientation, gender identity,**  
 8 **national origin, or ancestry.**

9 (b) A judge may not appoint the judge's son or daughter as an  
 10 official reporter.

11 SECTION 54. IC 35-46-2-1 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. A person who  
 13 knowingly or intentionally denies to another person, because of color,  
 14 creed, disability, national origin, **ancestry**, race, religion, ~~or~~ sex, **sexual**  
 15 **orientation, or gender identity**, the full and equal use of the services,  
 16 facilities, or goods in:

17 (1) an establishment that caters or offers its services, facilities, or  
 18 goods to the general public; or

19 (2) a housing project owned or subsidized by a governmental  
 20 entity;

21 commits a civil rights violation, a Class B misdemeanor.

22 SECTION 55. IC 35-46-2-2 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A public servant  
 24 having the duty to select or summon persons for grand jury or trial jury  
 25 service who knowingly or intentionally fails to select or summon a  
 26 person because of color, creed, disability, national origin, **ancestry**,  
 27 race, religion, **sexual orientation, gender identity**, or sex commits  
 28 discrimination in jury selection, a Class A misdemeanor.

29 SECTION 56. IC 36-9-4-37 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 37. (a) The board of  
 31 directors of a public transportation corporation may appoint or employ  
 32 a general manager, accountants, attorneys, traffic engineers, drivers,  
 33 clerks, secretaries, guards, laborers, and other employees, and may  
 34 prescribe and define their duties, regulate their compensation,  
 35 discharge them, and appoint or employ their successors. Employees  
 36 shall be selected without regard to race, religion, **sexual orientation,**  
 37 **gender identity, ancestry, national origin**, or any personal affiliation.  
 38 The board shall select the general manager on the basis of ~~his~~ **the**  
 39 **individual's** fitness for the position, taking into account ~~his~~ **the**  
 40 **individual's** executive ability and ~~his~~ knowledge of and experience in  
 41 the field of mass public transportation.

42 (b) The board shall bargain collectively and enter into written

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1 contracts with authorized labor organizations representing employees  
2 other than executive, administrative, or professional personnel. These  
3 contracts may provide for the binding arbitration of disputes, wages,  
4 salaries, hours, working conditions, health and welfare, insurance,  
5 vacations, holidays, sick leave, seniority, pensions, retirement, and  
6 other benefits.

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